

41-3-401.5. Disclosure of financing arrangements relating to the lease of a motor vehicle.

(1) (a) A dealer may not issue a temporary permit or release possession of a motor vehicle wherein the dealer has contracted to enter into a lease agreement to someone other than another dealer unless the contract to enter into a lease agreement contains the disclosure listed in Subsection (2).

(b) The disclosure shall be set forth clearly and conspicuously on the first or front page of the contract to enter into a lease agreement, executed by the prospective lessee and the dealer.

(2) The form to be used when the dealer contracts to enter into a lease agreement for the potential lease of a motor vehicle shall read as follows:

"(1) THE PROSPECTIVE LESSEE OF THE MOTOR VEHICLE DESCRIBED IN THIS CONTRACT TO ENTER INTO A LEASE AGREEMENT HAS EXECUTED THE CONTRACT IN RELIANCE UPON THE DEALER'S REPRESENTATION THAT THE DEALER CAN SECURE FROM A FINANCIAL INSTITUTION FINANCING ARRANGEMENTS FOR THE LEASE OF THE MOTOR VEHICLE. THE PRIMARY TERMS OF THE FINANCING ARRANGEMENT ARE TO BE AS FOLLOWS:

TERM BETWEEN _____ MONTHS AND _____ MONTHS. MONTHLY PAYMENTS BETWEEN \$_____ PER MONTH AND \$_____ PER MONTH BASED ON A DOWN PAYMENT AND/OR NET TRADE-IN ALLOWANCE OF \$_____.

(2) (a) IF THE DEALER IS NOT ABLE TO SECURE FINANCING ARRANGEMENTS WITHIN THE TERMS DISCLOSED, THEN THE DEALER MUST WITHIN SEVEN CALENDAR DAYS OF THE DATE OF THE CONTRACT TO ENTER INTO A LEASE AGREEMENT MAIL NOTICE TO THE PROSPECTIVE LESSEE THAT THE DEALER HAS NOT BEEN ABLE TO SECURE FINANCING ARRANGEMENTS IN ACCORDANCE WITH THE DISCLOSED TERMS AND THE CONTRACT TO ENTER INTO A LEASE AGREEMENT IS THEREFORE RESCINDED.

(b) IF THE DEALER IS NOT ABLE TO SECURE FINANCING ARRANGEMENTS WITHIN THE TERMS DISCLOSED, SUCH FAILURE DOES NOT UNDER ANY CIRCUMSTANCES REQUIRE THE DEALER TO PROVIDE THE FINANCING NECESSARY FOR THE PROSPECTIVE LESSEE TO LEASE THE VEHICLE.

(c) IF THE CONTRACT TO ENTER INTO A LEASE AGREEMENT IS RESCINDED, THE PROSPECTIVE LESSEE HAS 48 HOURS FROM RECEIPT OF THE NOTICE TO:

(i) RETURN TO THE DEALER THE MOTOR VEHICLE THE PROSPECTIVE LESSEE AGREED TO LEASE;

(ii) PAY THE DEALER AN AMOUNT EQUAL TO THE CURRENT STANDARD MILEAGE RATE FOR THE COST OF OPERATING A MOTOR VEHICLE ESTABLISHED BY THE FEDERAL INTERNAL REVENUE SERVICE FOR EACH MILE THE MOTOR VEHICLE HAS BEEN DRIVEN WHILE IN THE PROSPECTIVE LESSEE'S POSSESSION; AND

(iii) COMPENSATE THE DEALER FOR ANY PHYSICAL DAMAGE TO THE MOTOR VEHICLE WHILE THE VEHICLE WAS IN THE PROSPECTIVE LESSEE'S POSSESSION.

(3) IN RETURN, UPON RECEIPT OF THE ITEMS SET FORTH IN (2)(c)(i), (ii),

and (iii) THE DEALER SHALL RETURN TO THE PROSPECTIVE LESSEE ALL PAYMENTS OR OTHER CONSIDERATION PAID BY THE PROSPECTIVE LESSEE, INCLUDING ANY DOWN PAYMENT AND ANY MOTOR VEHICLE TRADED IN.

(4) IF THE TRADE-IN HAS BEEN SOLD OR OTHERWISE DISPOSED OF BEFORE THE CONTRACT TO ENTER INTO A LEASE AGREEMENT IS RESCINDED, THEN THE DEALER SHALL RETURN TO THE PROSPECTIVE LESSEE A SUM EQUIVALENT TO THE ALLOWANCE TOWARD THE LEASE PRICE GIVEN BY THE DEALER FOR THE TRADE-IN, AS NOTED IN THE CONTRACT TO ENTER INTO A LEASE AGREEMENT.

(Signature of the Prospective Lessee)

(Signature of the Dealer)"

(3) (a) (i) In addition to the penalties in this chapter, if the disclosure in Subsection (2) is not properly executed or if the dealer is unable to secure financing arrangements for the lessee as provided in Subsection (2) within seven calendar days immediately following the date disclosed on the contract to enter into a lease agreement, then in either case the prospective lessee may return the motor vehicle to the dealer and receive a complete refund of all money and other consideration given to the dealer for the contract to enter into a lease agreement, including any motor vehicle or property used as a trade-in.

(ii) If the motor vehicle or property used as a trade-in has been sold or otherwise disposed of, the dealer shall return to the prospective lessee the amount of money equivalent to the allowance towards the lease price given by the dealer for the motor vehicle or property traded in, as noted in the contract to enter into a lease agreement.

(b) If the dealer provides the notice as set forth in Subsection (2)(a) of the disclosure statement, the contract to enter into a lease agreement is rescinded.

(c) If a contract to enter into a lease agreement is rescinded under Subsection (3)(b):

(i) the prospective lessee shall return the leased vehicle within 48 hours of receiving a notice that the dealer is unable to secure financing arrangements for the lease; and

(ii) the prospective lessee is liable to the dealer:

(A) for all physical damage to the motor vehicle while in the possession of the prospective lessee; and

(B) in an amount equal to the current standard mileage rate for the cost of operating a motor vehicle established by the federal Internal Revenue Service for each mile the motor vehicle was driven between the date the prospective lessee first acquired possession and the date when the prospective lessee returned the motor vehicle to the dealer.

(4) (a) A dealer who has complied with Subsection (2), but who has not been able to secure financing arrangements as set forth in the disclosure, shall within seven days of the date of the contract to enter into a lease agreement mail written notice to the prospective lessee:

(i) disclosing that the dealer has not been able to secure financing arrangements as set forth in the disclosure; and

(ii) instructing the prospective lessee of the prospective lessee's responsibility to return the vehicle within 48 hours of receiving the notice, as provided for in Subsection (2).

(b) (i) The dealer shall mail notification to the prospective lessee within seven calendar days following the date that the contract to enter into a lease agreement was executed.

(ii) A notice complies with Subsection (4)(b)(i) if it is postmarked before the end of the seventh day following the date that the contract to enter into a lease agreement was executed and addressed to the prospective lessee at the address contained in the contract to enter into a lease agreement.

(iii) If the prospective lessee's address is not contained on the contract to enter into a lease agreement, then proof of compliance with the notification provision of this Subsection (4)(b) shall be borne by the dealer.

(iv) If a dealer gives notice in the manner prescribed, the prospective lessee has 48 hours from receipt of the notice to return the vehicle to the dealer.

(c) If a dealer executes the disclosure required by Subsection (2), but is not able to secure financing arrangements as set forth in the disclosure, and the dealer fails to give written notice to the prospective lessee within seven days, as provided for in Subsections (4)(a) and (b), then the prospective lessee shall return the vehicle within 48 hours of the date the prospective lessee first learns that the dealer has not been able to secure financing arrangements as set forth in the disclosure.

(5) (a) Either the prospective lessee or a dealer may bring an action to enforce contractual or statutory rights under this section.

(b) The prevailing party in an action under Subsection (5)(a) is entitled to reasonable attorney fees as part of the costs of the action.

(6) A motor vehicle returned by the prospective lessee to the dealer in accordance with the rescission provisions of this section is not considered leased for purposes of sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

Amended by Chapter 100, 2008 General Session